

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

THOMAS BENDER,

Plaintiff,

-against-

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

07-CV-4816 (CBA)(LB)

Lt. Louis Heneghan, Officer Patrick Theodore #12182,
Officer Scott Martin #28047, Officer Warren Ernst #18391,
Officer Robert Santos #06127, Sergeant Scott Field
#02801, Detective Rachel Alvarez #28354, Officer Jason
Forgione #22568, Detective Robin Sacco #7733, Detective
Dolores Chandler #7306, Lt. Lawrence Hammond, Captain
Greco, The City of New York,¹

Defendants.

WHEREAS, plaintiff THOMAS BENDER commenced this action by filing a complaint on or about November 19, 2007, alleging, *inter alia*, that defendants violated his federal civil rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has agreed to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and

between the undersigned, as follows:

¹ Pursuant to the Court's November 26, 2007 Order, plaintiff's original complaint was deemed amended to replace the "John Does" with the names of the individuals identified in the Office of the Corporation Counsel's December 26, 2007, response to the Court's Valentini Order. Moreover, on January 23, 2008, Magistrate Judge Bloom ordered the Clerk of Court to remove as defendants "Narcotics Borough Queens" and "The New York City Police Department." Finally, defendants note that plaintiff's original complaint listed "Confidential Informant of the New York City Police Department" as a defendant; however, it does not appear that the Clerk of Court was directed to remove this individual from the complaint.

1. The above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff THOMAS BENDER the total sum of THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00) in full satisfaction of all claims, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against the defendants, including, but not limited to, The City of New York, Lt. Louis Heneghan, Officer Patrick Theodore #12182, Officer Scott Martin #28047, Officer Warren Ernst #18391, Officer Robert Santos #06127, Sergeant Scott Field #02801, Detective Rachel Alvarez #28354, Officer Jason Forgione #22568, Detective Robin Sacco #7733, Detective Dolores Chandler #7306, Lt. Lawrence Hammond, Captain Greco, Narcotics Borough Queens, The New York City Police Department, the individual identified in the original complaint as "Confidential Informant of the New York City Police Department", and their successors or assigns, and to release the defendants and any present or former officials, employees, representatives and agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action that were or could have been alleged in this action, including claims for costs, expenses and attorneys' fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No Liens or an Affidavit Concerning Liens, whichever applies.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or

bylaws of any department or subdivision of the City of New York. This stipulation and settlement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

July 9, 2009

Mr. Thomas Bender
Plaintiff *Pro Se*
117-25 147th Street
Jamaica, New York 11436

By: Thomas Bender
Mr. Thomas Bender
Plaintiff *Pro Se*

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street—Room 3-209
New York, New York 10007
(212) 788-8684

By: Maurice L. Hudson 7/9/09
Maurice L. Hudson
Assistant Corporation Counsel

SO ORDERED:

s/Hon. Carol B. Amon

Honorable Carol B. Amon
United States District Judge

7/10/09

C/W